

REMARKS

Claims 1 through 17, and 19 through 21 are present in the application; Claim 18 has been canceled. Claims 1 through 20 have been non-finally rejected. The rejection of Claims 1 through 20 is respectfully traversed.

Claims 6 through 20 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In making out the rejection, the Examiner stated that “[i]n claim 6, the phrase ‘suitable for removably connecting to the support member of the chair’ renders the claim vague and indefinite. In claim 7, there is a lack of antecedent basis for ‘the notched support’. In claim 7, it is not clear if the shield is attached to the support member. Throughout the claims the cross member has not been positively claimed. In claim 10, it is not clear if the shield is attached to the chair. In claim 11, it is not clear if the clamping means is attached to a supporting member of the chair. In claim 11, it is not clear if the clamping means is attached to a horizontally positioned supporting cross member of the chair. In claim 14, it is not clear if the two rectangular brackets are attached to the supporting cross member. For brevity purposes the additional 112 2nd paragraphs [sic] problems will not be listed. However, claims 18-20 have similar 112 2nd paragraph [sic] problems.”

Responsive to the 35 U.S.C. § 112, second paragraph rejection of Claim 6 as being indefinite for failing to particularly point out and distinctly claim the subject matter, Claim 6 has been amended to recite the phrase “a plurality of aligned notches suitable for removably connecting the rigid, planar member to the support cross member of the chair”. This amendment is believed to overcome the rejection based on ‘it is not clear if the aligned notches are removably connecting the support member to the chair’.

Regarding the rejection of Claim 7 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter, the claim has been amended to recite “locking means suitable for removably

attaching the notched support to the supporting cross member”. This amendment is believed to overcome the rejection by particularly pointing out that the ‘notched support is removably attached to the cross member’. The claim has also been amended to delete the term “shield” and substitute therefor the phrase “planar member”. No new matter has been added to the claim by this amendment. Antecedent basis for the term can be found in Claim 1. Further, Claim 1 has been amended to positively claim the cross member element.

Responsive to the rejection of Claim 10 under 35 U.S.C. § 112, second paragraph as being indefinite for ‘not being clear if the shield is attached to the chair’, it is respectfully submitted that the claim recites the additional element of a “handle” being attached to the planar member. The term “shield” has been amended to recite “planar member”, and the last portion of the claim has been deleted as not being necessary to positively recite the additional element claimed. It is respectfully submitted that the claim does not recite any feature of the ‘shield being attached to the chair’.

Regarding the rejection of Claim 11 under 35 U.S.C. § 112, second paragraph as being indefinite for ‘not being clear if the claiming means is attached to a horizontally supporting member of the chair’. The claim now recites a supporting cross member’ at subpart c), and at subpart d), “clamping means, attached to a horizontally positioned supporting cross member of the chair”. To overcome the rejection of the claim under 35 U.S.C. § 112, second paragraph as being indefinite for ‘not being clear if the ‘notched supports’ and the ‘notch support’ are the same structural limitation, the claim has been amended to recite the phrase ‘notched support’, and the term “notched” has been inserted into the claim before the term ‘support’. No new matter has been added to the claims by these amendments. Antecedent bases for the amendments can be found throughout the specification as well as in the claim itself.

Claim 14 has been rejected under 35 U.S.C. § 112, second paragraph as being indefinite for ‘not being clear if the two rectangular brackets are attached to the

supporting cross member'. It is respectfully submitted that the claim recites the exact phrase that the Examiner questions, i.e. "clamping means comprise two rectangular brackets attached to the supporting cross member".

The Examiner also stated that "[f]or brevity purposes the additional 112 2nd paragraphs [sic] problems will not be listed. However, claims 18-20 have similar 112 2nd paragraph [sic] problems." Responsive thereto all the claims have been reviewed and amended where necessary to overcome any anticipated indefiniteness rejections. The preamble of Claim 1 has been amended to recite that 'the shield is attachable to a chair', and the 'supporting cross member' has been positively recited. Claim 2 has been amended to add the term "member" to the phrase "rigid, planar", the term "from" has been correctly spelled, and the Markush phrase has been amended to substitute the term "and" in place of "or". In Claim 3, the comma (" , ") after the term "comprises" and phrase "vertical and" have been deleted. In Claim 12 the term "and" has been substituted for "or". In Claim 13, the term "aligned" has been correctly spelled, the phrase "removably attach" has been incorporated to positively recite the removability of the safety shield, and the term "notched" has been inserted before "support" to clearly recite the "notched support" element. In Claim 14, the comma (" , ") between the terms "means" and "comprise" has been deleted. In Claim 15, the term "rectangular" has been inserted before the term "brackets". In Claim 17, the phrase "from the left side to the right ends" has been deleted. New Claim 21 replaces Claim 18, and Claim 19 has been amended to depend upon Claim 21. New Claim 21 recites all the limitations of old Claim 18, except the "supporting cross member" has been positively recited.

Attached herewith is an Appendix showing the amendments made to the claims, wherein "strikethroughs" represent deletions and "underlines" represent additions thereto.

Claims 1, and 4 through 7 were rejected under 35 U.S.C. § 102(b) as being anticipated by Edison. In making the rejection, the Examiner stated that "Edison discloses . . . a restraining apparatus for treating of animals (a safety shield) comprising a

rigid planar member 14, the planar member is movable vertically (the chain 68 allows the planar member to be move [sic] vertically), a notched support (chain 68 has notches, which in this case is define [sic] as “hollow in an object, surface or edge”) that is a plurality of notches (each link makes up a plurality of aligned notches in the chain), and a locking means 66.”

Edison discloses a ‘restraining apparatus for the slaughtering or treating of animals’ in the form of a transport carriage. The apparatus provides means for securing the animal in a standing upright position. The reference fails to provide a safety shield for attachment to a restraint device, but is instead the restraint device itself. Edison fails to disclose the removability or adjustability of the device to a restraint chair. There is no disclosure of a “notched support” or “clamping means” for attachment of the device to a ‘restraint chair’. To make out a *prima facie* showing of anticipation under § 102(b), the reference must recite each and every element (or equivalents) of the rejected claim (*Radio Steel & Manufacturing Co. v. MTD Products, Inc.*, 221 USPQ 657, 661 (Fed. Cir. 1984)). Edison fails to disclose all the elements of Claim 1, as amended.

Claims 2, 3 and 8 through 10 were rejected under 35 U.S.C. § 103 as being unpatentable over Edison and Ricketts. In making out the rejection, the Examiner stated that “Edison discloses . . . a restraining apparatus for treating animals (a safety shield) further comprising a handle 64. However, Edison does not disclose the rigid planar member being made of stainless steel. Ricketts teaches in figures 1-2 an animal restraint that can be made of stainless steel (col. 5, lines 6-11). It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the shield as disclosed by Edison could be fabricated of stainless steel as taught by Ricketts. The stainless steel would be durable enough to hold and [sic] animal in place, yet it would also resist corrosion.

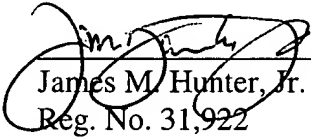
Responsive to the rejection, Edison discloses a 'restraining apparatus for the slaughtering or treating of animals' in the form of a transport carriage. Edison's apparatus provides means for securing the animal in a standing upright position. Ricketts teaches a telescoping restraint cage for animals. Therein the cage is characterized as having a floor, two walls, two doors, a moveable wall, and a moveable floor. Nowhere in the cited reference is there the teaching of a "safety shield for protecting workers." Furthermore, the Examiner has not provided any motivation for combining the references as he has done. Within the references, there is no common element that would motivate one of ordinary skill in the art to combine the same. Therefore, the Examiner has failed to make out a *prima facie* case of obviousness.

CONCLUSION

Reconsideration of the rejections and allowance of Claims 1 through 17, and 19 through 21, all the claims in the case, is respectfully requested. No additional fees are believed to be due for this amendment. However, if additional fees are due, the Examiner is authorized to deduct such fees from Deposit Account No. 13-2755.

Should the Examiner have any questions or wish to discuss this Amendment, she is request to contact Applicants' undersigned representative at her earliest convenience.

Respectfully submitted,


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Attachment:
Appendix

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